

RESOLUTION NO. 2009-17

A RESOLUTION OF THE BOARD OF SUPERVISORS OF COCONINO COUNTY, ARIZONA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT AMONG COCONINO COUNTY, GRAND CANYON UNIFIED SCHOOL DISTRICT NO. 4 OF COCONINO COUNTY, ARIZONA, AND THE LOAN COMMISSIONERS OF THE STATE OF ARIZONA PERTAINING TO THE ISSUANCE OF REFUNDING BONDS BY THE LOAN COMMISSIONERS ON BEHALF OF THE SCHOOL DISTRICT.

WHEREAS, Judgments (the "*Xanterra Judgments*") have been entered in favor of Xanterra Parks and Resorts LLC, ordering the refunding of certain taxes; and

WHEREAS, Coconino County (the "*County*") has paid and satisfied the portion of the Xanterra Judgments applicable to the County and the various political subdivisions within the County; and

WHEREAS, the Grand Canyon Unified School District No. 4 of Coconino County, Arizona (the "*District*"), is indebted to the County for the District's share of the Xanterra Judgments; and

WHEREAS, the District has made demand upon the State Loan Commissioners of the State of Arizona (the "*Loan Commissioners*") to issue refunding bonds (the "*Refunding Bonds*") to cover the District's share of the Xanterra Judgments and the costs of issuing the Refunding Bonds; and

WHEREAS, the Loan Commissioners have received bids for the purchase of such Refunding Bonds and have authorized the issuance of such Refunding Bonds; and

WHEREAS, in order to aid the Loan Commissioners in the annual levying and collection of taxation to pay the Refunding Bonds, the District, the County, and the Loan Commissioners will enter into the attached Agreement (the "*Agreement*").

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF COCONINO COUNTY, ARIZONA, that:

Section 1. That the Agreement among the District, the County, and the Loan Commissioners, in substantially the form attached hereto and marked *Exhibit A*, is approved and the Chairman of the Board of Supervisors is ordered and directed to complete, execute, and deliver the Agreement in substantially the form attached hereto with such insertions, deletions, modifications, and changes as the Chairman in his sole and exclusive discretion believes in the best interest of the County, and to cause the same to be delivered.

Section 2. The Chairman of the Board of Supervisors, the County Manager, and the County Treasurer are hereby ordered and directed to sign all certificates, make all representations, and do all things necessary to carry out the execution and delivery of the Agreement and to execute and deliver all documents, certificates, contracts, exhibits, and other

matter necessary for the full execution, delivery, and consummation of the Agreement and the issuance of the Refunding Bonds.

DATED this 19th day of May, 2009.

AYES: 3
NOES: 0
ABSENT: 2

COCONINO COUNTY, ARIZONA


Chairman, Board of Supervisors

ATTEST:


Clerk, Board of Supervisors

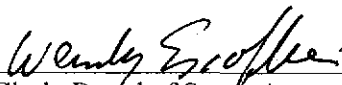
APPROVED AS TO FORM

COCONINO COUNTY ATTORNEY


Jean E. Wilcox, Deputy County Attorney

CERTIFICATION

I, Wendy Escoffier, the duly appointed and acting Clerk of the Board of Supervisors of Coconino County, Arizona, do hereby certify that the above and foregoing Resolution No. 2009-17 was duly passed by the Board of Supervisors of Coconino County, Arizona, at a regular meeting held on May 19, 2009, and the vote was 3 ayes and 0 nays and 0 abstained and 3 members of the Board of Supervisors were present.


Clerk, Board of Supervisors

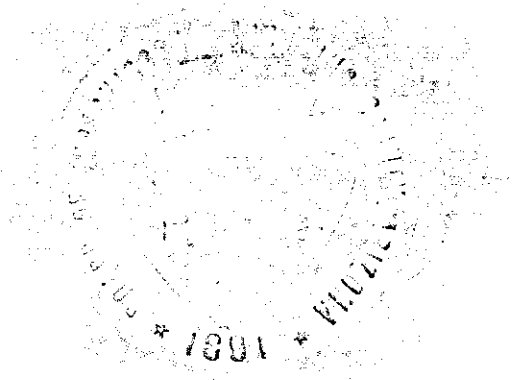


EXHIBIT A
THE AGREEMENT

RECORD:

SECRETARY OF STATE
COCONINO COUNTY RECORDER'S OFFICE

WHEN RECORDED MAIL TO:

Fred H. Rosenfeld
Gust Rosenfeld P.L.C.
201 E. Washington, Suite 800
Phoenix, Arizona 85004-2327

AGREEMENT

AMONG

THE LOAN COMMISSIONERS OF THE STATE OF ARIZONA,

**GRAND CANYON UNIFIED SCHOOL DISTRICT NO. 4 OF
COCONINO COUNTY, ARIZONA**

AND

COCONINO COUNTY, ARIZONA

THIS AGREEMENT (this "Agreement") made and entered into this 2nd day of June, 2009

WITNESSETH

WHEREAS, a Judgment (the "*Judgment*") has been entered against Grand Canyon School District No. 4 of Coconino County, Arizona (the "*District*"). Said Judgment was entered 2007 in the Tax Court of the State of Arizona; and

WHEREAS, Coconino County (the "County") has paid the Judgment and became the Assignee of the Judgment from the Judgment Creditor, Xanterra Parks and Resorts, Inc.; and

WHEREAS, Coconino County now owns the Judgment against the District in the amount of \$877,411.00; and

WHEREAS, the District made demand upon the Loan Commissioners of the State of Arizona (the "*Commissioners*") demanding that the Commissioners issue bonds of the State of Arizona to redeem and refund the Judgment pursuant to A.R.S. §35-429; and

WHEREAS, the Commissioners have authorized the issuance and sale of State of Arizona Loan Commissioners, State of Arizona Refunding Indebtedness Bonds, Series 2009 (the "*Bonds*"), as demanded by the District; and

WHEREAS, in the resolution authorizing the issuance of the such Bonds (the "*Bond Resolution*") the Commissioners authorized execution and delivery of this Agreement; and

WHEREAS, the Board of Supervisors of the County and the Governing Board of this District have also authorized the execution and delivery of this Agreement; and

WHEREAS, upon their initial issuance the Bonds will provide benefit to the District, the taxpayers thereof, and Coconino County, Arizona.

NOW, THEREFORE, BE IT AGREED BY THE PARTIES HERETO as follows:

Section 1. Authorizations. This Agreement is entered into pursuant to A.R.S. 11-951. The School District's authority to budget for Debt Service for the payment of bonds is contained in A.R.S. Title 15, Chapter 9, Article 1. The authority of the Board of Supervisors of Coconino County to levy taxes and of the State Loan Commissioners to order the levy of such taxes and authority of the Director of the Department of Administration to set the amount of such taxes is contained in A.R.S. Title 35, Chapter 3, Article 2.

Section 2. Annual Tax Levy. The District hereby agrees to include in its annual budget for each fiscal year commencing in fiscal year 2009-2010 and continuing to, and including fiscal year 2013-2014, a sufficient amount to pay the principal and interest on the Bonds coming due on January 1 during said fiscal year and on the July 1 immediately following the conclusion of the respective fiscal year. The annual amounts to be budgeted in each fiscal year are set forth in Exhibit A attached hereto. Coconino County, Arizona (the "County") hereby agrees to annually cause to be levied the amounts of taxes set forth in Exhibit A upon the taxable property within the District, in the same form and manner as other taxes are levied and collected for all other purposes of the District. The Treasurer of Coconino County shall cause the receipts from the taxes so levied and collected to be transmittted directly to the State Treasurer for deposit to the Interest Fund and Redemption Fund to be created by the State Treasurer for payment of the Bonds.

In addition to the foregoing, the District shall cause to be budgeted and the County shall cause to be levied and collected, such additional amounts as shall be necessary to pay the Registrar and Paying Agent for the Bonds and shall cause the County Treasurer to transmit all amounts necessary to pay any Registrar and Paying Agent's fee either directly to said Registrar and Paying Agent or to the State Treasurer for payment thereof.

Section 3. Tax Covenants. In consideration of the purchase and acceptance of the Bonds by the owners thereof, and in consideration of retaining the exclusion of interest income on the Bonds from gross income for federal income tax purposes, the District and the County covenant with the owners from time to time of the Bonds to neither take, nor fail to take any action which action or failure to act is within its power and authority and if taken would result in the interest income on the Bonds becoming subject to inclusion as gross income for federal income tax purposes under either laws existing on the date of issuance of the Bonds or such laws as they may be modified or amended.

The District and the County agree to comply with such requirement(s) and take any such action(s) necessary to prevent interest income on the Bonds becoming subject to inclusion in gross income for federal income tax purposes. Such requirements may include, but are not limited to, making further specific covenants; making truthful certifications and representations; giving necessary assurances; complying with all representations, covenants and assurances contained in certificates or agreements relating to the Bonds; paying to the United States of America any required amounts representing rebates of arbitrage profits relating to the Bonds; filing forms, statements and supporting documents as may be required under the federal tax laws; limiting the term of and yield on investments made with moneys relating to the Bonds; and limiting the use of proceeds of the Bonds and property financed thereby. The District agrees to file Internal Revenue Form 8038-G on behalf of itself and the Loan Commissioners. The District hereby further agrees to file the notice required by A.R.S. § 35-501 to be filed with the Department of Revenue as soon as possible after the initial issuance of the Bonds.

Section 4. Agreement. This Agreement has been submitted to the attorney for each public agency, to wit, the Attorney General of the State of Arizona, as attorney for the Commissioners, the County Attorney of Coconino County, as attorney for the County, and Gust Rosenfeld P.L.C., attorneys for the District, each of which have, by virtue of their signatures below, determined that said agreement is in proper form and within the powers and authority

granted under the laws of this state to the respective public agency, board or commission. This agreement shall be filed with the Secretary of State and with the County Recorder of the County.

Section 5. Jurisdictional Matters. This Agreement shall commence on June 2, 2009 and terminate on June 2, 2014, if all of the Bonds are then fully paid. If all of the Bonds are not fully paid on or prior to June 2, 2014, this Agreement shall remain in full force and effect until all of the Bonds and interest thereon are fully paid.

The purpose of this Agreement is to provide for a levy and collection of taxes to pay State of Arizona, Refunding Bonds, Series 2009, as authorized by the State Loan Commissioners on April 15, 2009.

The manner of paying the District's obligation hereunder is through the annual levy of ad valorem taxes on all taxable property within the District.

There is no method incorporated into this Agreement for its termination. Nothing in this Agreement shall relieve any public agency of any obligation or responsibility imposed upon it by law.

Section 6. Conflict of Interest. Notice is hereby given that pursuant to A.R.S. 38-511 the State, its political subdivisions, or any department or agency of either, may within three years after its execution, cancel any contract, without penalty or further obligation, made by the State, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating a contract on behalf of the State, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agency of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

DATED this 2nd day of June, 2009.

AFFIX STATE SEAL HERE

**LOAN COMMISSIONERS OF THE STATE
OF ARIZONA**

Dean Martin, Treasurer, State of Arizona and
Chairman of the Loan Commissioners

COCONINO COUNTY, ARIZONA

ATTEST:

Chairman, Board of Supervisors

Clerk of the Board

AFFIX COUNTY SEAL HERE

**GRAND CANYON UNIFIED SCHOOL
DISTRICT NO. 4 OF COCONINO
COUNTY, ARIZONA**

President, Governing Board

The foregoing Agreement is within the power of the Loan Commissioners of the State of Arizona and the Director of the Department of Administration.

**THE ATTORNEY GENERAL OF THE
STATE OF ARIZONA**

By: _____
Assistant Attorney General

The foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Coconino County, Arizona.

COCONINO COUNTY ATTORNEY

By: _____
Deputy County Attorney

The foregoing Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Grand Canyon School District No. 4 of Coconino County, Arizona.

GUST ROSENFELD P.L.C.

By: _____
Fred H. Rosenfeld

EXHIBIT A

ANNUAL LEVIES¹

<u>Fiscal Year</u>	<u>Series 2009 Amount</u>	<u>Total District Debt Service Levy²</u>
2009/2010	139,284	576,659
2010/2011	135,269	576,219
2011/2012	136,144	574,384
2012/2013	131,813	571,553
2013/2014	567,481	567,481

¹ A reasonable amount shall be added to each annual levy to cover uncollected taxes

² Assumes that the District will neither accumulate additional debt nor issue additional bonds.